

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

September 25, 1985

Andrew J. Whalen, III, Esq.
Christopher, Mullins & Whalen
P. O. Box 133
Griffin, Georgia 30224-0133

Dear Mr. Whalen:

This refers to the method of election and the districting plan for the Board of Commissioners for the City of Griffin in Spalding County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the information to complete your submission on July 27, 1985. Although we have noted and made every effort to accommodate your request for expedited consideration, we have been unable to respond until this time.

We have considered carefully all of the information you have provided, together with Bureau of the Census data, and information and comments provided by other interested parties. At the outset, we note that the submitted plan would elect four of the five councilmembers from single-member districts and one at large. Even though the black population has increased to 42 percent of the city, only one district has been created with sufficient black population to constitute a voting age majority and, thus, allow blacks a realistic opportunity to elect a candidate of their choice to office. While we also have noted the city's assertion that a fairly drawn single-member plan of five wards cannot be devised if the traditional north-south and east-west axes of the city, and neighborhoods within those axes, are to be maintained, we further note that the city had for its consideration a large

number of alternative plans, a number of which consisted of five single-member districts. Our analysis shows that these five-ward plans did no more violence to the preservation of the traditional axes and neighborhoods of the city than did the four-ward alternatives and, in some cases, far less so than does the submitted plan. Indeed, it appears that a fairly drawn five-ward plan can incorporate reasonable adherence to traditional axes, along with maintenance of neighborhoods, and at the same time reflect more fairly the voting strength of the minority community than does the plan adopted.

Furthermore, even in connection with District 2, the one ward in the proposed plan containing a substantial black majority of 67.7 percent, the city chose to include an area of affluent white residents who have a consistently high voter turnout rate into a district of low-income black residents who have a record of low voter registration and participation. In doing so, the district line in fact deviates from the traditional east-west axis of the city, a line that also serves as a division between black and white neighborhoods. Thus, the two main neutral criteria of the city are violated and the result is that blacks, although ostensibly a significant majority, constitute only 53 percent of the registered voters in the district. In devising the other three districts, the city chose not to consolidate the predominantly black neighborhood in the northcentral portion of the city with the heavily black area north and west of the airport, in the southcentral portion of Griffin. Rather, the city fragmented the latter neighborhood between predominantly white Districts 3 and 4.

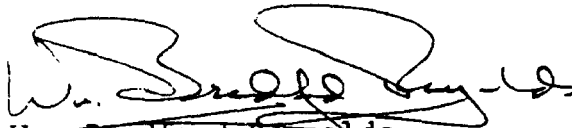
While the racial composition of the districts does not, standing alone, evidence a discriminatory purpose or effect within the meaning of Section 5, nevertheless, the Voting Rights Act does not allow a covered jurisdiction to fragment or manipulate cohesive minority residential areas or adopt a particular method of election for the purpose of avoiding the higher black percentages that would logically result from the nonracial development of a districting plan. See Connor v. Finch, 431 U.S. 407, 425 (1977). And even though the city is not precluded from considering some at-large representation among its councilmembers, the obligation to assure equal opportunity to its minority constituents requires that whatever plan adopted fairly reflects minority voting strength as it exists.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the four single-member districts and one at-large method of election adopted for the board of commissioners as implemented by the proposed districting plan.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the proposed 4-1 districting plan for the City of Griffin legally unenforceable. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the City of Griffin plans to take with respect to this matter. If you have any questions, feel free to call Poli A. Marmolejos (202-724-8388), Attorney/Reviewer of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wm. Bradford Reynolds", is written over a horizontal line.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

February 10, 1986

Judith Richards Hope, Esq.
Paul, Hastings, Janofsky & Walker
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036

Dear Ms. Hope:

This refers to your request that the Attorney General reconsider the September 25, 1985, objection under Section 5 of the Voting Rights Act of 1965, as amended, to the method of election and districting plan for the Board of Commissioners for the City of Griffin in Spalding County, Georgia. We received the information to complete your request on December 17, 1985.

We have considered carefully all of the information you have provided, along with Bureau of the Census data and information and comments from other interested parties. We remain unpersuaded, however, on reconsideration that the submitted 4-1 districting plan is entitled to preclearance.

While the factual circumstances surrounding the development of the submitted plan are complex, I remain of the view that alternative districting proposals reflecting a different 4-1 configuration, or a 5-1 configuration, are available to the city that would meet Section 5 criteria. Admittedly such options do not allow the city to adhere to the Taylor Street/Hill Street axis. However, the city appears to have effectively abandoned any serious effort to retain the axis boundaries (except as lip-service) in virtually all of its districting proposals, and no good reason has been offered to adhere slavishly to district lines on any such basis.

For the foregoing reasons, the concerns that led to our decision to interpose the September 25, 1985, objection have not been satisfied on reconsideration. Accordingly, I must, on behalf of the Attorney General, decline to withdraw the objection.

- 2 -

Of course, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color, irrespective of whether the changes previously have been submitted to the Attorney General. As previously noted, until such a judgment is rendered by that court, the legal effect of the objection by the Attorney General is to render the changes in question unenforceable. See also 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the City of Griffin plans to take with respect to this matter. If you have any questions, feel free to call Sandra S. Coleman (202-724-6718), Director of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds", written over a horizontal line.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

cc: Andrew J. Whalen, III, Esq.
Neil Bradley, Esq.